

**Before the  
FEDERAL COMMUNICATIONS COMMISSION  
WASHINGTON, DC 20554**

In the Matter of:	)	
	)	
NATIONAL CITY MORTGAGE CO.	)	CG Docket No. 02-278
	)	
Petition for Expedited Declaratory Ruling	)	DA 05-1347
with Respect to Certain Provisions of the	)	
Florida Statutes	)	

**REPLY COMMENTS OF NATIONAL CITY MORTGAGE CO.  
IN SUPPORT OF ITS PETITION FOR EXPEDITED DECLARATORY RULING**

The petition of National City Mortgage Co. (“NCMC”) for expedited declaratory ruling (“Petition”) now has been pending for nearly nine months.<sup>1</sup> That Petition was prompted not merely by the inconsistency between the provisions of Florida law and the Commission’s rules, but by the State of Florida’s demonstrated willingness to prevent NCMC from using prerecorded messages in interstate calls placed to Florida telephone subscribers with whom NCMC has an established business relationship of the kind recognized by federal law. Florida has responded to the Petition with duplicative, meritless motions to dismiss and repeated statements of its intention to continue to ignore this Commission’s jurisdiction over interstate telemarketing.<sup>2</sup>

The comments filed on July 29, 2005, in response to the Commission’s Public Notice published in the Federal Register on June 29, 2005, add no substantive factual

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<sup>1</sup> National City Mortgage Co. Petition for Expedited Declaratory Ruling with Respect to Certain Provisions of the Florida Statutes, CG Docket No. 02-278 (Nov. 22, 2004) (“Petition”).

<sup>2</sup> State of Florida’s Motion to Dismiss for Lack of Jurisdiction and Other Grounds, CG Docket No. 02-278 (Jan. 11, 2005); State of Florida’s Motion to Dismiss for Lack of Jurisdiction and Other Grounds, CG Docket No. 02-278 (June 3, 2005).

claims or legal arguments to those previously made in opposition to the Petition.<sup>3</sup>

Accordingly, with the record in this proceeding now complete, NCMC urges the Commission to grant the relief requested without further delay.

Respectfully submitted,

/s/ Charles H. Kennedy  
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Counsel for National City Mortgage Co.

Date: August 18, 2005

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<sup>3</sup> FCC Public Notice, *Consumer & Governmental Affairs Bureau Reopens Public Comment Period For Petitions For Declaratory Ruling Relating to Preemption of State Telemarketing Laws*, DA 05-1347 (May 13, 2005) (published in the Federal Register, 70 Fed. Reg. 37318 (June 29, 2005)).

## **CERTIFICATE OF SERVICE**

I, Theresa Rollins, do hereby certify that I have on this 18<sup>th</sup> day of August, 2005, had copies of the foregoing **REPLY COMMENTS** delivered to the following, via electronic mail:

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/s/ Theresa Rollins

Theresa Rollins